

ORDINANCE NO. 12-18

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA APPROVING THE FIRST RENEWAL OF A GROUND LEASE WITH T-MOBILE SOUTH LLC, A DELAWARE LIMITED LIABILITY COMPANY, TO LEASE A SITE LOCATED AT O'QUINN PARK, 6051 WEST 2 AVENUE, HIALEAH, FLORIDA TO USE A WIRELESS COMMUNICATIONS FACILITY ON A 100-FOOT HIGH MONOPOLE TOWER FOR A TERM OF FIVE YEARS, BEGINNING ON MAY 1, 2012 AND ENDING ON APRIL 30, 2017 FOR A BASE ANNUAL RENT OF \$44,669.86 FOR THE FIRST YEAR OF THE RENEWAL PERIOD, WITH AN ANNUAL INCREASE OF 5% EACH YEAR, TOGETHER WITH SUCH RIGHTS AND DUTIES AS MORE FULLY DESCRIBED IN THE GROUND LEASE, AND GRANTING A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS AND UTILITIES IN CONNECTION CONTINUED OPERATION AND MAINTENANCE OF THE COMMUNICATIONS TOWER; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Hialeah, Fla., Ordinance 07-28 (Mar. 1, 2007), the City of Hialeah and T-Mobile South LLC ("T-Mobile") entered into a ground lease to construct and operate a cellular tower at O'Quinn Park, 6051 West 2 Avenue, Hialeah, Florida for five years, with two five-year renewal options; with initial base rent of \$35,000 with 5% annual increases; and

WHEREAS, T-Mobile constructed the cellular tower and operated the wireless communications facility for five years and accordingly, has requested to exercise its option to renew for a second five-year term; and

WHEREAS, it is in the best interest of the City to allow for the use of wireless communication towers on public property and obtain revenue through a ground lease with the base rent for the first year of the renewal term to be set at \$44,669.86.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The City of Hialeah, Florida hereby approves the first renewal of a ground lease with T-Mobile South LLC, a Delaware limited liability company, to lease a site located at O'Quinn Park, 6051 West 2 Avenue, Hialeah, Florida, to use a wireless communication facility on a 100-foot high monopole tower, beginning on May 1, 2012 and ending on April 30, 2017, for a base annual rent of \$44,669.86, with an annual increase of 5% each year, together with such rights and duties as more fully described in the ground lease, a copy of which is attached hereto and made a part hereof as Exhibit "1".

Section 2: The City of Hialeah, Florida hereby grants a non-exclusive easement for ingress, egress and utilities in connection with the continued operation and maintenance of the communications tower.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty described above, the

City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

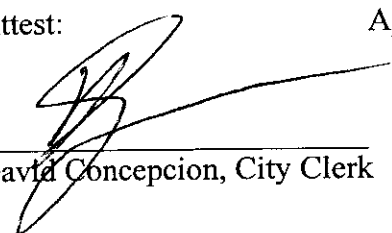
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 10th day of April, 2012.


Isis Garcia-Martinez
Council President

Attest:

Approved on this 10 day of April, 2012.


David Concepcion, City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".